



United States  
of America

# Congressional Record

PROCEEDINGS AND DEBATES OF THE 105<sup>th</sup> CONGRESS, SECOND SESSION

Vol. 144

WASHINGTON, MONDAY, JUNE 15, 1998

No. 77

## Senate

The Senate met at 1 p.m. and was called to order by the President pro tempore [Mr. THURMOND].

### PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

God of hope, make us hopeful thinkers. Hope through us for Your best for the future of America. Often we are infected by negative thinking when we calculate the possible without Your power. Continued conflict over legislation can result in weariness.

We know that authentic hope is based on Your faithfulness and the memory of how You have intervened to help us in the past. Help us to take a backward look to Your past blessings, an upward look to Your grace, and a forward look to the future, expecting the ways You will help us solve problems and grasp potentials. You are a God of progress. You abhor plateaus; You make us bold to claim Your vision. Help the Senators to exemplify the uplifting strength of hope this week. Through our Lord and Savior. Amen.

### RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able majority leader, Senator LOTT of Mississippi, is recognized.

Mr. LOTT. Thank you, Mr. President.

### SCHEDULE

Mr. LOTT. Mr. President, today the Senate will be in a period of morning business until 2 p.m. Following morning business, the Senate will resume consideration of the tobacco bill. As a reminder to all Senators, any votes ordered today with respect to the bill will occur at 5 p.m. this evening. I believe there is one amendment that there may be a vote on. We should expect a vote at 5 o'clock, and it will probably be very close to 5 in order to accommodate Senators who will have

to leave shortly thereafter. It is expected that no more than two votes will be ordered today.

Pending is the amendment of Senator REED of Rhode Island regarding the deductibility of tobacco advertising. We hope to lock in that vote for 5. But we will notify Members if it is going to be any different from that. It is hoped that the next Republican amendment can also be offered today. The vote on that may follow the vote on the Reed amendment. But, again, that has not been locked in yet.

We may also attempt to reach an agreement with regard to the Higher Education Act. We made some progress on that last week. There are some concerns still pending. But we will have the committee chairman and the Members working on the Higher Education Act. We need to get that completed. We have extended the time for the loans and grants under that act for 90 days. We don't have the July 1 deadline that would cause the students not to get their loans and grants, but the program expires July 1. We need to try to get that legislation moved as soon as possible.

We also have the NASA authorization bill and the drug czar office reauthorization bill, as well as other legislation or Executive Calendar items that may be cleared for action.

Any votes with regard to other items on the tobacco bill will occur then on Tuesday morning at a time to be determined by the two leaders—probably around 9:30 or 10. But we will need to see if we have something ready by then.

The official photo for the 105th Congress will take place tomorrow, Tuesday, June 16, at 2:15 p.m. All Senators are asked to be in the Chamber and seated at their desk at that time. Again, at 2:15 tomorrow, Tuesday, we will take the official photograph. This is the best time, looking at everybody's schedules and illnesses that we have been having to work around. But we

want to get this done. We plan on doing it tomorrow.

One final point: We expect that the education conference report will be available one day this week—maybe Wednesday. That is the Coverdell A+ issue with some other parts that were added to it in the Senate. I believe this is a conference report that will have broad bipartisan support. We will take that up when the conference report is available.

Observing no Senator wishing to speak, I note the absence of a quorum.

The PRESIDING OFFICER (Mr. KYL). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

### RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, leadership time is reserved.

### MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 2 p.m., with Senators permitted to speak for 5 minutes therein.

### THE TOBACCO BILL

Mr. BOND. Mr. President, we are getting into the tobacco wars again today. I know we have made some progress. I have seen in the last week several amendments adopted which I think are very important. As a long-time advocate of assuring full deductibility for

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



Printed on recycled paper.

S6309

health insurance for the self-employed, I was delighted that, and the marriage penalty provision, survived a vote in the Chamber, and also what we called the Bond-Kerry amendment directing that some of the money paid out to the States be used at the very essential early stages of a child's development through early childhood development, parent education to make their children better students, better people, to accept responsibility for them, and providing child care to assure that children in elementary school are not left alone without supervision before and after school.

These are steps in the right direction. I understand that one of my colleagues, for whom I have great respect, later on today will come to the floor and seek to strike all mandates on States in this bill.

Generally, I have taken the position as a former Governor that we should not be mandating what States do with all of the money that is collected by the Federal Government from our State constituents. In this case, however, I think the situation is a little different because we have been asked by the States to come in and legislate. These actions started off as lawsuits, and it came to the point where they believed that a Federal law was necessary to implement the objectives that the States have and that we share, which is to assure discouraging of teenage smoking. I think that once we go down that path of imposing a major legislative solution—and we are going to be the ones who have to take the responsibility for imposing the fees, for setting up the smoking cessation programs and other things—that there is every reason for us to pose responsible legislative provisions which will have to be agreed to by a majority of both Houses.

I would mention the fact that there has been some controversy. I regret we were not able to place a limit on the amount of fees the lawyers for the States would receive. It seems to me we missed an essential ingredient here. We are talking about imposing a settlement or directing a distribution of sums that is not really a settlement of a lawsuit. We are developing a major proposal which is going to raise large amounts of money, provide some tax relief, send some money back to the States. I think we have every reason to say how much money that lobbyists, who are essentially the attorneys who brought the suits—the lobbyists pushing this legislation—should be able to achieve. Some of the figures that have been expressed on the floor about \$80,000 to \$90,000 an hour are unconscionable. And the people of my State—and I believe the people of the United States—are very much concerned about what is going to be done with all this money. I share that concern.

I think before this measure passes, or is finally adopted, there ought to be some limitation. Sure, let the people who worked on it get a reasonable re-

turn. But there is no reason to give a small group of people, selected by attorneys general, a windfall of literally potentially billions of dollars from our legislative action. The people who are going to have to be paying the higher fees for cigarettes, I think, have a right to ask us not to permit States to go through with the contracts which give essentially judicial contingent-fee-type rewards to people who are, in essence, coming to us, lobbying for us to pass legislation.

I think we ought to be able to establish some conditions on some of the money that goes back to the States. I have said that smoking cessation is important. The educational element is important in ensuring young people at least know the message that smoking can be harmful and that they should not start. I think we need to inform them.

I think, second, it is right and proper that, as we did last week, we support the concept in the Bond-Kerrey proposal, that funds going back to the States should be utilized for expanding child care, for assuring adequate early childhood development to ensure that every family takes responsibility for its child's behavior. We ought to be talking about parental responsibility, about family responsibility, about adult care-giver responsibility.

I will tell you one other thing. There is something that is lacking in this bill, and I intend to offer—I hope it will be tomorrow—an amendment which will deal with one of the areas that this bill, in my view, wrongfully ignores. We are trying to get teenagers to stop smoking. Where is the responsibility on the teenagers themselves? I know teenagers. I happen to have one in my family. Mine is a fine young man. We have these wonderful, bright-eyed, aggressive, intelligent young people here who are working as pages. Yet we are saying we are going to protect them from everybody else—from the sellers, from the tobacco companies—but we are not saying they have to take any responsibility. Young people are old enough to begin taking responsibility. If they drive a car illegally and they get caught, they get sanctioned. If they drive and they are drinking, or if they are using drugs, in my State they can lose their licenses. Young people ought to know they have some limits and some responsibilities. So I am going to offer an amendment to say to the States: If you want to receive money under these block grants, you ought to set up a system for sanctioning teenagers who purchase cigarettes illegally.

We are raising the price, we are providing education, but, as one teenager I talked to said: "Hey, if all they are doing is saying it's bad and the store that sells it to me is going to be in trouble or the people who make it are going to be in trouble but I can walk scot-free—that's worth a try." There are some teenagers who, unfortunately, in their rebellious teen-age ways—and

most of us can still recall when we were teenagers and remember those days—will say, "That's worth a try." If we want to discourage teenage smoking, then there need to be some sanctions on the teenagers.

I would lay out a string of sanctions and say, for the first offense, either a \$50 fine or a day's worth of community service. A \$50 fine might be really heavy on one teenager, but for another teenager it might not make any difference. But if that young man has to spend a day picking up trash along the highway as part of a community service sanction imposed on him for purchasing cigarettes illegally, I don't think he is going to want to be out there in broad daylight in the hot, broiling sun, with all his buddies going by honking and waving at him picking up trash on the highway.

I would even go so far as to say parents out to get sanctioned, too. We want to hold parents responsible. We want parents to recognize it is not just Government's responsibility, it is their responsibility as parents. Sure, we have all kinds of sanctions on the sellers, mom-and-pop stores that sell a whole range of things, including a legal product, tobacco, saying: You are really going to get it if you sell to a teenager.

But is it fair to have that penalty only on one side? The amendment I am going to offer, and I hope both sides of the aisle will support, will say: States, you have to come up with a graduated system of sanctions so teenagers will know it is not a risk-free endeavor to try to lure a convenience store operator or a grocery store operator to sell you cigarettes that you should not be buying. Some States are moving ahead and they have sanctions, so they would be in compliance. But I think this bill would be sadly lacking if we set out a system of penalties and tried some educational efforts to convince teenagers they should not do what is illegal, and left them without sanctions.

So I hope we can adopt, tomorrow, a measure which does impose sanctions on teenagers or encourages States to say they must set up a reasonable graduated system of sanctions for anybody who purchases—acquires cigarettes illegally. Thus, I would say, when we come to the point about debating whether this bill should have no sanctions or no limitations or restrictions on the States, I think we have gone past that. Once the States came here and asked us to get involved and to set up a scheme to discourage teenage smoking, to raise the price of cigarettes to provide smoking education, provide research, provide health care benefits, we ought to continue down that road and provide the one element which is lacking in the current scheme, and that is strong incentives for States to punish and to impose a reasonable, graduated system of penalties on those who purchase illegally.

So I ask my colleagues not to support a removal of all requirements on

the States. I ask them—I hope it will be tomorrow when we come forward with our amendment—to support the amendment. My amendment will simply provide incentives for States to impose sanctions on youth who buy or possess tobacco products illegally. We are taking all kinds of steps in the bill to keep cigarettes out of the hands of teens. We are creating new boards and agencies, we are seeking that the tobacco industry limit advertising, we are planning ad campaigns to discourage teens from smoking, we are holding convenience stores accountable for selling cigarettes to teens illegally. About the only people we are not holding responsible are the teens themselves. I ask support for my amendment that will do that.

Teen smoking is on the rise at a time when older adults are reducing tobacco consumption. There is more information out there than ever before about the risks of smoking, but teens continue to smoke. Some of that may be rebelliousness. How should we handle that rebellion? Quite simply, by holding teens accountable for their actions. Teens need to know that their actions have consequences. If they purchase tobacco illegally, they should have a penalty to pay—perform community service or kick in with some money to the General Treasury of the entity involved.

Mr. President, I ask support for my amendment. If others want to cosponsor the amendment, I welcome having them contact us. We are already working with several Members who are interested. I hope we can get this amendment accepted on both sides. I think it is a responsible and appropriate response to the problem that this measure seeks to address.

Mr. President, I yield the floor and, seeing no other Senator present wishing to speak, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KYL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ALLARD). Without objection, it is so ordered.

#### INDIA'S NUCLEAR PROGRAM

Mr. KYL. Mr. President, given the fact that the managers of the tobacco legislation are not here even though the Senate was to begin reconsideration of that proposal at 2 o'clock, I would like to continue to speak in morning business for about 5 minutes to put an article in the RECORD and ask unanimous consent at this time to include that article at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See Exhibit 1.)

Mr. KYL. Mr. President, this is an article from the Washington Post by Vic-

tor Gilinsky and Paul Leventhal. Victor Gilinsky is an energy consultant, and Paul Leventhal is president of the Nuclear Control Institute. At the time of the 1974 nuclear test by India, they were, respectively, a member of the Nuclear Regulatory Commission and the U.S. Senate staff.

They write about the history of the nuclear program conducted by India, illustrating the complicity that the United States has had in the Indian program and, more importantly, the misplaced reliance that the United States has put in arms control agreements, which in the end never quite seem to bear the fruit that we had hoped for.

In this case, it was part of the Atoms for Peace Program that the United States participated in as a result of a previous treaty, and it was part of the Atoms for Peace Program whereby the United States and Canada and other nuclear powers would provide some material for India for peaceful purposes. They had a reactor built by Canada. It was made essentially operable, according to this article, by the United States providing 21 tons of heavy water. This, of course, was all under a promise that the Indians made to the United States that the reactor would be used only for peaceful purposes. But apparently India used plutonium from this reactor in its 1974 nuclear explosion. What the authors said—I will quote: “. . . neither capital”—meaning the capital of Canada or the United States—“has uttered a peep about this matter is symptomatic of Western complicity in the South Asian nuclear crisis and of the present paralysis in dealing with it.”

What they are pointing out is that when we negotiate a peace treaty with countries which says, “You won't develop nuclear weapons—if you will promise not to do that, then we will provide you peaceful nuclear technology,” it is almost impossible for that peaceful technology to end up in a nuclear weapons program if that is the country's ultimate desire. And, in the case of India, for whatever reasons it decided it was in its national interest to produce a nuclear weapon, apparently it used the product of this Atoms for Peace peaceful nuclear program as part of its weapon program in violation of the treaty.

But for the United States, or Canada, or the other nuclear powers of the world to complain about this would require us to have to admit to something that we are not about to admit; namely, that these treaties don't work; that there is no way to enforce them; and that, in point of fact, a program that we had every hope would be a success—the Atoms for Peace Program—has in fact helped to contribute to the development of a nuclear weapon by the country of India.

The article goes on to make some other points that I think are important; that is, that the country of India has broken several promises here in the

development of its nuclear weaponry; that it had always complained about the charter of the new International Atomic Energy Agency in the 1950s.

The article points out:

It was duplicity in carrying out the Atoms for Peace agreements in the 1960's. It undermined the Nuclear Non-Proliferation Treaty with its “peaceful” bomb of 1974.

That is referring to the fact that the Indians got around the violation by claiming that the bomb they exploded was for peaceful purposes. And apparently the United States looked the other way.

But the article goes on to note, “Despite this history, each new generation of American policymakers thinks that by being a little more accommodating”—for countries like India—we will then gain their restraint and their acceptance of the nuclear controls that we would like to place upon them. Of course, India is not alone in this. I am not being any more critical of India than I would be of other countries that would be engaged in the same kind of conduct.

But what this article concludes is “. . . American self-deception that stems from a mix of idealism and commercial greed.” is the reason these countries have been able to get away with this for so long—again, “. . . American self-deception that stems from a mix of idealism and commercial greed.”

Mr. President, that is exactly what we have seen with the desire to sell virtually anything to nobody, the argument always being, if we will not sell it to them, then someone else will, which is always an excuse for transferring technology. That we have come to learn with some sadness recently. That should not have been transferred to China, for example.

We also find this concept of idealism—that if they will just sign one more treaty, if we will just get one more commitment from a country that it won't engage in conduct that we believe inimical to world peace, that just maybe, therefore, we will have the peace that we so earnestly desire.

The fact of the matter is that when it comes to a nation's self-defense, it is going to do what it deems in its best interest irrespective of a piece of paper, of a treaty, of a commitment, or of a promise to the rest of the world, and it is not going to be swayed by world opinion or even by the punishment that nations or organizations may mete out.

Thus, India and Pakistan were all too willing to suffer the opprobrium of the world community. They were very—I shouldn't say “happy”—but they were willing to suffer the constraints of the economic sanctions that are automatically imposed upon them as a result of their nuclear programs and their testing, because, first of all, it is domestic politics for them, but, even more importantly, they deem it to be in their national self-interest for the preservation of their countries.